

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

ORDER NO. 2002-007  
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
WILLIAM P. JOHNSON AND NORTH PLAZA, LLC  
VIOLATIONS  
OF  
CALIFORNIA WATER CODE §§ 13267, 13383, AND 13376  
AND  
STATE WATER RESOURCES CONTROL BOARD  
ORDER NO. 99-08-DWQ

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having held a public hearing on 12 December 2001, to hear evidence and comments on the allegations contained in Amended Complaint No. 2001-186, dated 15 August 2001, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385 in the amount of \$103,497 finds as follows:

1. William P. Johnson and North Plaza, LLC own the 49.8 acre property described as “North Plaza” located near Ynez Road and North Plaza Drive, Temecula, California.
2. William P. Johnson and North Plaza, LLC began construction activity at the North Plaza site on 15 April 1999.
3. The California State Water Resources Control Board (State Board) adopted *Order No. 92-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* on 20 August 1992 to address storm water discharges from construction activity resulting the soil disturbance of five acres or more. On 19 August 1999, the State Board updated Order No. 92-08-DWQ with *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity*.
4. William P. Johnson and North Plaza, LLC filed a Notice of Intent (NOI) to comply with State Board *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Construction Storm Water Permit) for the North Plaza site that was received by the State Board on 06 September 2000 (WDID No. 9 33S313938). It is the responsibility of the landowner to obtain coverage under the Construction Storm Water Permit prior to the commencement of construction activities.

5. California Water Code (CWC) section 13376 requires “any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state...shall file a report of the discharge in compliance with the procedures set forth in Section 13260,...” Therefore, William P. Johnson and North Plaza, LLC violated Water Code section 13376 from 15 April 1999 to 06 September 2000 for a total of 510 days.
6. On 10 May 2000, the Regional Board pursuant to Water Code section 13267 and 13383 directed that William P. Johnson and North Plaza, LLC submit a technical report to the Regional Board by 31 May 2000. William P. Johnson and North Plaza, LLC failed to submit an adequate report to the Regional Board until 11 October 2001, resulting in 496 days of violation of Water Code sections 13267 and 13383.
7. On 25 January 2001, the Regional Board pursuant to Water Code section 13267 and 13383 directed that William P. Johnson and North Plaza, LLC submit additional information in a second technical report to the Regional Board by 16 February 2001. William P. Johnson and North Plaza, LLC failed to submit an adequate report to the Regional Board until 11 October 2001, resulting in 235 days of violation of Water Code sections 13267 and 13383.
8. William P. Johnson and North Plaza, LLC negligently discharged sediment laden storm water runoff from the North Plaza site to Empire Creek and Murrieta Creek on or about 15 March 2000 without submitting a report of waste discharge in violation of Water Code section 13376 for a total of one day.
9. William P. Johnson and North Plaza, LLC negligently discharged sediment laden storm water runoff to Empire Creek and Murrieta Creek in violation of State Board Order No. 99-08-DWQ section A.2 on 06 December 2000, 11 January 2001, 13, 15 and 22 February 2001 resulting in five days of violation of Water Code section 13376.
10. William P. Johnson and North Plaza, LLC negligently failed to implement and or maintain Best Management Practices (BMPs) in violation of State Board Order No. 99-08-DWQ section C.2 on 06 December 2000, 11 and 24 January 2001, 13, 15 and 22 February 2001, resulting in six days of violation of Water Code section 13376.
11. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained In Amended Complaint No. 2001-186, William P. Johnson and North Plaza, LLC, 29 August 2001* supports assessment of civil liability pursuant to Water Code section 13385 in the amount of \$103,497 as follows:

- \$65 per day for failing to file a NOI for 510 days of violation of Water Code section 13376 for a total of \$33,150;
- \$4.50 per day for failing to submit the first technical report for 496 days of violation of Water Code sections 13267 and 13383 for a total of \$2,232;
- \$9 per day for failing to submit the second technical report for 235 days of violation of Water Code sections 13267 and 13383 for a total of \$2,115;
- \$10,000 per day for the discharge of sediment laden storm water runoff to waters of the U.S. for six days of violation of Water Code section 13376 for a total of \$60,000; and
- \$1,000 per day for failure to implement and/or maintain BMPs for six days of violation of Water Code section 13376 for a total of \$6,000.

12. This enforcement action is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Division 13, Chapter 3, Section 21000 et seq.) in accordance with Section 13389 of the California Water Code.

**IT IS HEREBY ORDERED** that civil liability is imposed on William P. Johnson and North Plaza, LLC in the amount of one hundred three thousand four hundred ninety-seven dollars (\$103,497) of which \$58,497 is payable immediately to the State Water Resources Control Board for deposit into the State Water Pollution Cleanup and Abatement Account and that the rationale for the assessment contained in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained In Complaint No. 2001-186, William P. Johnson and North Plaza, LLC, 06 September 2001* is hereby incorporated into this order. The remaining portion of the liability, forty-five thousand dollars (\$45,000) shall be suspended upon deposit within thirty (30) days of this Order by William P. Johnson and North Plaza, LLC of forty-five thousand dollars (\$45,000) into a secure interest bearing account yielding a competitive interest rate, with a financial institution acceptable to the Regional Board.

The escrow account shall name North Plaza, LLC and the California Regional Water Quality Control Board, San Diego Region as parties. The purpose of the escrow account is to hold funds to be disbursed to the City of Murrieta for the completion of the Line E Mitigation Wetlands project. If the City of Murrieta can obtain other funds within six (6) months of this Order to fully complete the project by 01 October 2002. If the City of Murrieta cannot obtain funding within six (6) months, the entire amount in the escrow account including earned interest will be transferred to the State Water Pollution Cleanup and Abatement Account. The Executive Officer and Assistant Executive Officer of the Regional Board shall be agents of the Regional Board to authorize payments from the account to the City of Murrieta. The escrow agreement shall specify that no payments shall be made from the account unless authorized in writing by the Regional Board agents. In addition to the forty-five thousand dollar (\$45,000) deposited in escrow, William P. Johnson and North Plaza, LLC shall pay all fees associated with the establishment and maintenance of the escrow account. All interest earned on the monies deposited into the account shall be returned to the State Water Resources Control Board for deposit into the State Water Pollution Cleanup and Abatement Account upon payment of

\$45,000 to the City of Murrieta. William P. Johnson and North Plaza, LLC must submit written verification that the deposit has been made.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on 09 January 2002.



JOHN H. ROBERTUS  
Executive Officer